

Message Text

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ORIGIN SCS-06

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DRAFTED BY CA:SCS:LPMULLIN:GJL
APPROVED BY CA:SCS:LPMULLIN
CA:SCS:MISS DAY
CA:SCS:MR. GISE

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FM SECSTATE WASHDC
TO AMCONSUL LUBUMBASHI PRIORITY
INFO AMEMBASSY KINSHASA

UNCLAS STATE 185112

E.O. 11652: N/A

TAGS: CDES (GLENN, LONNIE)

SUBJECT: DEATH OF LONNIE GLENN

REF: LUBUMBASHI 776

1. DEPARTMENT AGREES WITH POST THAT 7 FAM DOES NOT OFFER SPECIAL INSTRUCTIONS CONCERNING THE PREPARATION OF FORMS FS-192 FOR EVERY VARIETY OF DISASTEROUS DEATH OR DISAPPEARANCE OF AMERICAN CITIZENS ABROAD. HOWEVER, 7 FAM 441.5, "PRESUMPTIVE DEATH", WAS INTENDED TO SERVE AS INSTRUCTIONS TO POSTS FOR ALL CASES OF UNDOCUMENTED DEATHS INCLUDING THOSE CAUSED BY WAR. REALIZING THAT MANY SECTIONS OF 7 FAM NEED TO BE IMPROVED AND EXPANDED, THE DEPARTMENT PREPARED CIRCULAR AIRGRAMS AS AN INTER-MEDIATE STEP TO ASSIST CONSULAR OFFICERS UNTIL COMPLETION OF A DEATHS AND ESTATES HANDBOOK. THE INTENTION OF PARAGRAPH 9 OF REFERENCED A-1229 WAS TO ENLARGE UPON 7 FAM 441 BY DESCRIBING THE KINDS OF EVIDENCE INCLUDING SWORN
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STATEMENTS, WHICH POSTS MIGHT SUBMIT TO THE DEPARTMENT WITH A REQUEST FOR AN ADVISORY OPINION REGARDING THE PREPARATION OF A "PRESUMPTIVE" DEATH REPORT. IT WAS NOT INTENDED THAT SWORN STATEMENTS WOULD TAKE THE PLACE OF A RECORD OR CERTIFICATE ISSUED BY LOCAL AUTHORITIES IN A FINAL REPORT OF DEATH.

2. A CONSULAR REPORT OF DEATH IS AN ADMINISTRATIVE REPORT WHICH IS TO BE ISSUED UPON THE RECEIPT OF EVIDENCE ISSUED BY THE CIVIL AUTHORITIES HAVING JURISDICTION OVER THE COUNTRY OF DEATH. THE DEPARTMENT'S REGULATIONS IN 7 FAM 441.5 ARE BASED ON THE CODE OF FEDERAL REGULATIONS, 22 CFR 72.5 "REPORTS OF PRESUMPTIVE DEATH" WHICH READS AS FOLLOWS: QUOTE

(A) PROVISIONAL REPORT. UPON THE RECEIPT OF EVIDENCE THAT UNITED STATES CITIZEN IS MISSING AND IS PRESUMED TO BE DEAD, A REPORT SHOULD BE SUBMITTED TO THE DEPARTMENT ON FORM FS-192, WITH THE TITLE AMENDED TO READ "REPORT OF THE PRESUMPTIVE DEATH OF AN AMERICAN CITIZEN." A STATEMENT SHOULD BE INSERTED IN THE FORM UNDER THE HEADING "CAUSE OF DEATH" SUCH AS THE FOLLOWING: "REPORTED MISSING, BELIEVED TO BE DEAD", GIVING THE SOURCE OF THE INFORMATION UPON WHICH THE PRESUMPTION IS BASED. A STATEMENT SHOULD ALSO BE INCLUDED UNDER THE HEADING "REMARKS" SHOWING THE REQUIREMENTS OF LOCAL LAW FOR THE ESTABLISHMENT OF LEGAL PRESUMPTION OF THE DEATH OF MISSING PERSONS; I.E., WHETHER UNDER LOCAL LAW THE LEGAL PRESUMPTION OF DEATH AUTOMATICALLY ARISES AT THE EXPIRATION OF A STIPULATED LAPSE OF TIME, OR WHETHER FORMAL ACTION IS NECESSARY TO OBTAIN LEGAL CONFIRMATION OF THE DEATH OF MISSING PERSONS.

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(B) FINAL REPORT. IN THE EVENT THAT THE FACT OF DEATH IS ESTABLISHED, A FINAL COMPLETE REPORT SHALL BE SUBMITTED TO THE DEPARTMENT ON FORM FS-192 MARKED "FINAL REPORT," IN WHICH REFERENCE SHALL BE MADE, UNDER THE HEADING "REMARKS", TO THE PROVISIONAL REPORT. IF FEASIBLE, A "FINAL REPORT" SHOULD BE SUBMITTED AT SUCH TIME AS LEGAL PRESUMPTION OF DEATH ARISES IN ACCORDANCE WITH LOCAL LAW. UNQUOTE

THE QUOTED SECTION OF THE CFR CLARIFIES THAT LOCAL LAW IS THE AUTHORITY UPON WHICH A FINAL REPORT OF DEATH CAN BE BASED, AND, IF FEASIBLE, THE FINAL REPORT WOULD BE ISSUED AT SUCH TIME THAT (A) THE LEGALLY STIPULATED TIME HAS ELAPSED SINCE THE PERSON WAS MISSING AND PRESUMED DEAD, OR (B) FORMAL ACTION WAS TAKEN TO OBTAIN LEGAL CONFIRMATION OF THE DEATH OF A MISSING PERSON. IN THE LIGHT OF THESE INSTRUCTIONS, BOTH OF THE FS-192'S ISSUED FOR ESCHTRUTH AND GLENN ARE TECHNICALLY INCORRECT BECAUSE THEY DO NOT FULFILL THE REQUIREMENTS OF THE CFR.

3. WE CAN UNDERSTAND THAT POST MAY HAVE BEEN MISLED BY THE ASSUMED APPROVAL BY THE DEPARTMENT OF POST'S

ACTION IN THE ESCHTRUTH CASE. AFTER REVIEWING THE FILE, HOWEVER, WE FIND THAT OUR INSTRUCTIONS CONTAINED IN STATE 136633 REFERRED TO A REPORT OF PRESUMPTIVE DEATH. WE APOLOGIZE FOR COMPOUNDING THIS ERROR BY NOT RESPONDING TO LUBUMBASHI'S 434 BUT WE MISTAKENLY INTERPRETED THE WORDS "FINAL REPORT" TO MEAN A COMPLETED REPORT OF PRESUMPTIVE DEATH SINCE THAT WAS THE SUBJECT MATTER OF THE DEPARTMENT'S REFERENCED CABLE. UNFORTUNATELY, WE DID NOT VERIFY OUR ASSUMPTION BY CHECKING THE FS-192 WHEN IT SUBSEQUENTLY ARRIVED IN THE DEPARTMENT.

4. IN THE LIGHT OF THE ABOVE, THERE ARE NOW SEVERAL COURSES OF ACTION OPEN TO THE POST. (1) ASCERTAIN WHETHER THE LOCAL CIVIL AUTHORITIES CONSIDER DR. RUPPOL'S UNCLASSIFIED

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CERTIFICATE (PARAGRAPH 6 REFTTEL) AND/OR THE SWORN STATEMENTS TO BE THE EQUIVALENT OF A CORONER'S CERTIFICATE. (2) IF AFFIRMATIVE AND LOCAL AUTHORITIES WILL RECORD THE DEATH, POST CAN PREPARE AND DISTRIBUTE AN AMENDED CERTIFICATE TO INCLUDE THE AUTHORITY FOR THE CAUSE OF DEATH. (3) IF NEGATIVE, ISSUE A REPORT OF PRESUMPTIVE DEATH INCLUDING IN THE REMARKS THE REQUIREMENTS OF LOCAL LAW FOR THE ESTABLISHMENT OF LEGAL PRESUMPTION OF DEATH.

5. DEPARTMENT REALIZES THAT FAMILIES ARE SHAKEN BY TRAGEDIES SUCH AS THAT WHICH BEFELL LONNIE GLENN AND MR. ESCHTRUTH AND TRIES TO DO EVERYTHING POSSIBLE TO REFRAIN FROM ADDING TO THE TRAUMA. HOWEVER, IT IS BELIEVED THAT THE FAMILIES WILL NOT BE UNDULY DISTURBED BY THE RECEIPT OF A CORRECTLY PREPARED REPORT OF PRESUMPTIVE DEATH ACCOMPANIED BY A SYMPATHETIC EXPLANATORY LETTER.

6. POST SHOULD PURSUE THE COURSES OF ACTION LISTED IN PARAGRAPH 4 IN THE CASE OF LONNIE GLENN.

7. INSTRUCTIONS IN THE CASE OF ESCHTRUTH WILL FOLLOW BY SEPTTEL.

8. DEPARTMENT'S COPIES FS-192'S ON SUBJECT BEING RETURNED TO POST FOR AMENDMENT. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 21 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
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Document Unique ID: 00
Drafter: SCS:LPMULLIN:GJL
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780301-0388
Format: TEL
From: STATE
Handling Restrictions: n/a
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Legacy Key: link1978/newtext/t19780732/aaaabbbe.tel
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Litigation History:
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Message ID: 1fb78a6e-c288-dd11-92da-001cc4696bcc
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Reference: 78 LUBUMBASHI 776
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 21 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
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Review Withdrawn Fields: n/a
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Secure: OPEN
Status: NATIVE
Subject: DEATH OF LONNIE GLENN
TAGS: CDES, (GLENN, LONNIE)
To: LUBUMBASHI
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/1fb78a6e-c288-dd11-92da-001cc4696bcc
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